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CHAPTER 8

Felony Offenses in the Michigan Penal Code

8.1 Involuntary Manslaughter with a Motor Vehicle

B. Elements of the Offense

On page 8-2, replace the sentence following the last element, “4. The injury caused . . . ,” with the following language:

When a defendant is *charged* with manslaughter, both CJI2d 16.12 and CJI2d 16.14 (Negligent Homicide) must be given. See MCL 750.325 and Section 9.2.

CHAPTER 8

Felony Offenses in the Michigan Penal Code

8.1 Involuntary Manslaughter with a Motor Vehicle

E. Issues

Insert the following case summary on page 8-3 immediately before Section 8.2:

MCL 750.325 does not entitle a defendant charged with second-degree murder to a jury instruction on negligent homicide. *People v Weeder*, 469 Mich 493, 498 (2004). In *Weeder*, the defendant was charged with second-degree murder following an auto-related death, the trial court refused to instruct the jury on negligent homicide, and the jury convicted the defendant of involuntary manslaughter. *Weeder, supra* at 495–496. The Michigan Supreme Court disagreed with the defendant’s assertion that MCL 750.325 required that the jury be permitted to consider convicting him of negligent homicide where he was charged with second-degree murder but convicted of involuntary manslaughter. *Weeder, supra* at 498.

Notwithstanding the propriety of the trial court’s determination that the evidence did not support giving the jury a negligent homicide instruction (a question to be resolved by the Court of Appeals on remand), the Supreme Court emphasized that the plain and unambiguous language of MCL 750.325 clearly indicates that the statute applies only when a defendant is *charged* with manslaughter. *Weeder, supra* at 497–499. Because the defendant in *Weeder* was not charged with manslaughter in connection with the auto-related death, MCL 750.325 did not apply, and the defendant was not entitled to an instruction on negligent homicide on that basis. *Weeder, supra* at 498.

CHAPTER 9

Two Year Misdemeanors in the Michigan Penal Code

9.2 Negligent Homicide with a Motor Vehicle

E. Issues

Insert the following language on page 9-5, at the beginning of subsection (E):

MCL 750.325 does not entitle a defendant charged with second-degree murder to a jury instruction on negligent homicide. *People v Weeder*, 469 Mich 493, 498 (2004). MCL 750.325 states that negligent homicide is a lesser included offense of manslaughter and that “where a defendant is charged with manslaughter committed in the operation of any vehicle,” a jury may convict the defendant of negligent homicide.

In *Weeder*, the defendant was charged with second-degree murder following an auto-related death, the trial court refused to instruct the jury on negligent homicide, and the jury convicted the defendant of involuntary manslaughter. *Weeder*, *supra* at 495–496. The Michigan Supreme Court disagreed with the defendant’s assertion that MCL 750.325 required that the jury be permitted to consider convicting him of negligent homicide where he was charged with second-degree murder but convicted of involuntary manslaughter. *Weeder*, *supra* at 498.

The Supreme Court emphasized that the plain and unambiguous language of MCL 750.325 clearly indicates that the statute applies only when a defendant is *charged* with manslaughter. *Weeder*, *supra* at 497–498. Because the defendant in *Weeder* was not charged with manslaughter, MCL 750.325 did not apply, and the defendant was not entitled to an instruction on negligent homicide on that basis. *Weeder*, *supra* at 498. When MCL 750.325 does not apply, a defendant’s request for an instruction on negligent homicide may still be appropriate if negligent homicide is a necessarily included lesser offense of the charged offense, and where the evidence supports the instruction. *Weeder*, *supra* at 498–499, citing *People v Cornell*, 466 Mich 335 (2002).